

November 9, 2003

Allen Fiksdal, Manager
Energy Facility Site Evaluation Council
PO Box 43172
Olympia, WA 98504-3172

RECEIVED

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ENERGY FACILITY SITE
EVALUATION COUNCIL

Re: Proposed BP Cherry Point Co-Generation Plant
Noise, Prefiled Direct Testimony, and Exhibits 24.0, et al.

Dear Mr. Fiksdal,

I spoke with Irina Makarow last Tuesday. She was returning my call from the previous Sunday in which I requested more time to respond to Exhibit 24.0, Applicant's Prefiled Direct Testimony, David M. Hessler, and attached reports, which was mailed to me after the October 1st co-generation meeting in Blaine, Washington. Ms. Makarow said that I could have until this Monday, November 10, 2003, to respond. Thank you for extending the comment period so that I could respond to the supplemental materials I received.

Attached please find my affidavit regarding noise. I will attempt to response to some of David Hessler's testimony and noise studies.

I perceive more than several flaws, inaccuracies, and unsubstantiated statements, conclusions, and presumptions in the noise monitoring and testing done by Hessler Associates, Inc. It takes time to refer to all the documents and I would also like to try to address issues other than those covered by the noise expert hired by Whatcom County.

Baseline Noise Monitoring

Per the sworn statements in the Affidavit:

1. Baseline monitoring needs to be done in the Cottonwood Beach area, where the citizens requested monitoring. | 1
2. Baseline monitoring also needs to be done at night, especially when the sky is clear. | 2
3. Baseline monitoring needs to be done when the level of refinery noise is sufficient to cause complaints from citizens. | 3

My Affidavit testifies to BP knowledge that noise is louder during times when equipment is being shut down and started up. Therefore, noise needs to be monitored during the time that equipment is being shut down and fired back up again as part of the baseline study. Ms. Cleveland's testimony also states that Cottonwood Beach residents have volunteered to have | 4

noise monitoring equipment and noise monitoring studies done on their property, thus totally invalidating the Hesseler Associates' concern regarding private property access issues (draft EIS, 3-9.6, September 5, 2003).

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cont.

Current Noise Levels

On page 3-9.6 of the draft EIS, at the end of the 2nd paragraph, it says, "The results of the existing conditions for day and night periods are presented in Table 3-9.5." Table 3-9.5 (on page 3-9.9) is entitled: Estimated noise levels combining modeled and background noise.

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Where are the baseline noise study result showing what the baseline noise levels are today? How can we examine the results and validity of the Hesseler methodology if we do not have the data of the current day and night noise levels?

WAC 173-60-040 and maximum noise levels

The second paragraph of page 3-9.6 in the draft EIS states the noise levels range from 47 dBA to a high of 68 dBA during the day, and 39 dBA to 65 dBA during the night.

WAC 173-60-040 states the noise limitations to be:

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during the day noise from a class C property going to a class A property: 60 dBA

during the night noise from a class C property going to a class A property: 50 dBA
(reduced by 10 dBA)

What, if any, evidence has been submitted that shows that the BP refinery changes production in the evening in order to reduce the amount of noise emitted by the refinery?

I am physically too tired to force my brain to continue to analyze the data, but I have lots of comments written all over the study. It just takes a lot of time and energy to document my comments and write them in a coherent manner.

Sincerely,

Cathy Cleveland

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

IN RE APPLICATION NO 2002-01)	
)	
BP WEST COAST PRODUCTS, LLC)	AFFIDAVIT OF
)	CATHY CLEVELAND
BP CHERRY POINT COGENERATION)	
PROJECT)	
_____)	

1. My name is Cathy Cleveland. I have been at Birch Bay during the summers since the early 1960s, before the Atlantic Richfield/ARCO/British Petroleum/BP refinery was built. I lived on Birch Bay Drive while I was in college, and currently, I live in the Cottonwood Beach area of Birch Bay at 4961 Morgan Drive.
2. On January 15, 2003, I attended a general information meeting for the public regarding the proposed BP Cherry Point cogeneration plant at the Blaine Public Library at 7:00 p.m.
3. We were introduced to (1) Michael Luftin, Assistant Attorney General, Counsel for the Environment, who would be an information source regarding this project and the proceedings, as well as an advocate for the Whatcom County citizens who would be affected by the co-generation plant, (2) Mike Koffman from GASP (Generations Affected by Senseless Power), (3) Michael Torpey, the BP Environmental Manager responsible for the project and environmental permitting, (4) Michael Abenhoff, public relations, and (5) I believe, Bill Kidd, Internal Affairs for BP in the Northwest and Arizona.

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4. These people told us about the BP's permit application. They explained the permitting process and that the draft environment impact statement was not done yet. They told us who the intervenors were, as of November 5, 2002, and other information about the proposed co-generation plant and the proposed mitigations. They also talked about pollution and particulate matter.

5. After all above-mentioned people spoke, they opened the meeting up to the audience to ask questions and to express concerns regarding the impacts of the proposed plant and to mention issues the people wanted addressed in the EIS, so BP could "mitigate" the impacts.

6. The Assistant Attorney General appeared to be writing down all of the citizen's issues. BP officials noted some of the issues. I naively believed that the Assistant Attorney General would make sure all the issues were addressed, so I did not write down all the issues expressed by the citizens present at the meeting.

7. Several concerns were raised about noise.

8. The major concerns, based on a past history with the refinery, were the accuracy, effectiveness, and the location of the monitoring. Historically, noise monitoring has been done in locations where the noise is quieter than the area from which the citizens have made complaints, or in areas where the BP refinery noise is barely audible, if at all, such as a location out at Birch Bay Village (where the prevailing winds do not typically move the noise towards Birch Bay Village). Therefore, citizens expressed their concerns about the validity of the monitoring, i.e., that monitoring has previously been done in a manner to validate and justify BP and ARCO's assertions that noise is always within the regulatory limits.

9. I did not document who, but one of the Cottonwood Beach residents, stated that the BP noise already wakes them up at night and that they wanted monitoring in the Cottonwood Beach neighborhood. Several others spoke up to confirm that resident's assertion, and said

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that they too were frequently awakened at night by refinery noise. To date, noise monitoring has not been done in the Cottonwood Beach area. (Please note that where later monitoring was done, near Councilperson Roy residence, is not Cottonwood Beach, but is a beach area south of Cottonwood Beach.) See also, page 3.9-4 in the EIS, which lists 15 noise-monitoring sites, but does not include Cottonwood Beach. I cannot state for certainty, that it was at the January meeting that Cottonwood residents stated that they would not object to noise monitoring on their property, but in fact, they would welcome it. BP is and has been aware of citizen's agreeing to have monitoring on their property. If this was not stated at this meeting, it certainly was stated at other meeting where BP representatives were present.

10. At the meeting, I specifically asked about the noise "modeling" that was being done in the lab. I asked if it was being done in a dry box. The answer was, "Yes."

11. I asked that they do a model that accurately reflects the reality of what is really happening at Birch Bay. First of all, almost all the noise complaints are at night, contrary to the unsubstantiated assumption and claim made by Hessler Associates, Inc., in the April 16, 2003, memo; Exhibit 24.1 DMH-1. The citizens who have been most vocal about complaints are from the Cottonwood Beach area. Therefore, modeling done in a dry box is inaccurate and is wholly lacking in validity, as it does not accurately reflect the area in which the sound will be traveling.

Second, sound travels different through dry air than it does through damp, cool evening air. During a sunny day in the summer, from the north end of the State Park, one can only hear a motorcycle accelerate and decelerate at stop signs, until the first stop on the Blaine Road. But, on a cool, clear, damp evening, you can hear the motorcycle starting and stopping at stop signs, going up past California Creek to Grubby's, more than an additional two miles from the Blaine Road. On cloudy days or evenings, one would not hear the motorcycle noise as far away, as the clouds tend to have a muffling affect on the noise.

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Third, I also stated that sound travels different over water, and that the sound traveling from the refinery to the Cottonwood Beach area is traveling across the water without obstructions to muffle or disperse the noise. When asked, I was told that the modeling in the box also contained trees. So, I requested that some modeling be done without trees, and just over water. When I made these statements, both the Assistant Attorney General and a BP official, (Michael Torpey?), wrote some notes on their paper and said that this would be addressed. The EIS does not mention that any accurate modeling was done, despite a specific request that it be done.

12. BP representatives (usually Michael Abenhoff) regularly attended the Steering Committee meetings for the Birch Bay subarea Growth Management planning for last several years and they heard complaints about the refinery's pollution and noise at those meetings. They were well aware of noise complaints and that the Cottonwood Beach area, in particular, received a lot of noise from the refinery that woke people up at night.

13. Elizabeth Daley attended a couple of the meetings. She gave me her business card and asked me to call her when the noise woke me up at night. I called her many times in 2002. I am not sure if I saved a record of my calls to her in 2002. Ms. Daley told me that BP has to report complaints, so I would think that either BP or whoever the regulating agency is or the agency to whom BP reports complaints should have a record of my complaints, as well as complaints from others.

14. Since the noise problem did not improve, I decided to write down the dates of my complaints on my calendar starting in 2003; that is, the complaints I remembered to write down on my calendar. The dates on my calendar are as follows: (Please note that I sleep in two different bedrooms depending on how cold it is, and when I am home. My actual bedroom is upstairs on the side of the house gets the entire BP refinery noise. The guest bedroom is downstairs on the other side of the house and is quite insulated from BP noise by the rest of the house. It has a heated waterbed that is too hot to sleep on during the summer when there is BP noise. Therefore, in the winter, there may have been more refinery noise than I reported, only because I was not sleeping where I would hear the

noise.) (1) January 6, 2003, 12:45 AM, (2) January 27, 2003, 4:00 AM, (3) February 15, 2003, (AM time not recorded) low rumbling noise with a very large puff of steam coming from the refinery, and (4) February 19, 2003, 11:30 PM –12:00AM, low level rumbling noise with a large puff of steam coming from the refinery.

15. Elizabeth Daley usually returned my phone calls to let me know that she received my complaint. I did not document the date that she last called me to let me know that she thought the origin of the noise of my complaints was during “turn around” times, where they had to shut down and start up refinery equipment. She said that this only happened a couple times a year and that the noise was inevitable and unavoidable. After her call, I stopped documenting my complaints. Subsequent to my last conversation with Ms. Daley, refinery noise levels have significantly decreased. Some of us have wondering if this was for monitoring purposes, as well as for public relations while BP goes through the process of getting the co-generation plant approved.

16. More could be included in this affidavit, but time limits prevent further statements.

I swear under the penalty of perjury under the laws of the State of Washington that the above statements are true and accurate (except possibly for spelling of names and typographical errors).

Cathy Cleveland